



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2022-0837; FRL-10294-01-R9]

Air Plan Approval; California; Ventura County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the Ventura County Air Pollution Control District (VCAPCD) portion of the California State Implementation Plan (SIP). This revision concerns emissions of volatile organic compounds (VOCs) from architectural coating operations. We are proposing to approve a local rule to regulate these emission sources under the Clean Air Act (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

DATES: Comments must be received on or before [Insert date 30 days after date of publication in the *Federal Register*].

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R09-OAR-2022-0837 at <https://www.regulations.gov>. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER**

INFORMATION CONTACT section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>. If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Arnold Lazarus, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 972-3204 or by email at lazarus.arnold@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us” and “our” refer to the EPA.

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I. The State’s Submittal

- A. *What rule did the State submit?*

Table 1 lists the rule addressed by this proposal with the dates that it was adopted by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1 - SUBMITTED RULE

Local Agency	Rule #	Rule Title	Adopted/Amended/Revised	Submitted
VCAPCD	74.2	Architectural Coatings	11/10/2020	7/26/2021

On January 26, 2022, the submittal for VCAPCD Rule 74.2 was deemed complete by operation of law.

B. *Are there other versions of this rule?*

We approved an earlier version of Rule 74.2 into the SIP on July 6, 2011 (76 FR 39303). The VCAPCD adopted revisions to Rule 74.2 on November 10, 2020. CARB submitted the amended rule to the EPA on July 26, 2021, as an attachment to a letter of the same date. If we take final action to approve the November 10, 2020 version of Rule 74.2, it will replace the previously-approved version of the rule in the VCAPCD portion of the applicable California SIP.

C. *What is the purpose of the submitted rule revision?*

Emissions of VOCs contribute to the production of ground-level ozone, smog and particulate matter (PM), which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control VOC emissions. Architectural coatings are coatings that are applied to stationary structures and their accessories. They include house paints, stains, industrial maintenance coatings, traffic coatings, and many other products. VOCs are emitted from the coatings during application and curing, and from the associated solvents used for thinning and clean-up.

VCAPCD Rule 74.2 regulates VOC emissions from architectural coatings. The rule was updated to conform to CARB's Suggested Control Measures (SCM) for Architectural Coatings, May 2019. More specifically, to conform with CARB's 2019 update of the SCM for architectural coatings, VCAPCD added new categories of coatings, tightened VOC limits for certain other categories of coatings, added new limits for colorants, updated test methods, and clarified and tightened certain definitions and administrative requirements. VCAPCD estimates that aligning Rule 74.2 with the CARB 2019 SCM for architectural coatings will reduce VOC emissions by 22.12 tons per year (i.e., approximately 0.06 tons per day (tpd)) in Ventura County.¹ In addition,

¹ VCAPCD, Staff Report "Proposed Amendments to Rule 74.2, Architectural Coatings," August 2020, page 3.

the Ventura County 2016 Air Quality Management Plan includes revisions to Rule 74.2 as one of the control measures in the plan.² While not needed to meet CAA requirements for the 2008 ozone national ambient air quality standard (NAAQS), revisions to Rule 74.2 are intended to provide emissions reductions for the 2015 ozone NAAQS and to fulfill State air quality requirements.³ The EPA's technical support document (TSD) has more information about this rule.

II. The EPA's Evaluation and Action

A. *How is the EPA evaluating the rule?*

Rules in the SIP must be enforceable (see CAA section 110(a)(2)), must not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements (see CAA section 110(l)), and must not modify certain SIP control requirements in nonattainment areas without ensuring equivalent or greater emissions reductions (see CAA section 193).

Generally, SIP rules must require reasonably available control technology (RACT) for each category of sources covered by a Control Techniques Guidelines (CTG) document as well as each major source of VOCs in ozone nonattainment areas classified as Moderate or above (see CAA section 182(b)(2)). The VCAPCD regulates an ozone nonattainment area classified as Serious nonattainment for the 2008 and 2015 8-hour ozone National Ambient Air Quality Standards (40 CFR 81.305). Because there is no relevant EPA CTG document for architectural coatings and because there are no major architectural coating sources within Ventura County, architectural coatings are not subject to RACT requirements. However, as a nonattainment area for ozone, Ventura County is subject to the requirement to implement all reasonably available control measures (RACM) as needed to attain the 2008 and 2015 ozone NAAQS by the applicable attainment dates.

² VCAPCD, Final 2016 Ventura County Air Quality Management Plan, February 14, 2017, pp. 33-35.

³ 84 FR 70109, at 70117 (December 20, 2019).

Guidance and policy documents that we used to evaluate enforceability, revision/relaxation and rule stringency requirements for the applicable criteria pollutants include the following:

1. “State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,” 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).
2. “Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations,” EPA, May 25, 1988 (the Bluebook, revised January 11, 1990).
3. “Guidance Document for Correcting Common VOC & Other Rule Deficiencies,” EPA Region 9, August 21, 2001 (the Little Bluebook).
4. National Volatile Organic Compound Emission Standards for Architectural Coatings, 40 CFR 59, Subpart D.
5. California Air Resources Board (CARB) Suggested Control Measure for Architectural Coatings, May 2019.

B. *Does the rule meet the evaluation criteria?*

We have evaluated the enforceability of submitted VCAPCD Rule 74.2 with respect to applicability and exemptions; standard of conduct and compliance dates; sunset provisions; discretionary provisions; and test methods, recordkeeping and reporting, and have concluded that the rule continues to be enforceable for the purposes of CAA section 110(a)(2)(A).

We have also determined that the submitted rule implements RACM-level controls for this particular area source because the VOC content limits are more stringent than the corresponding federal requirements in Table 1 to Subpart D of 40 CFR part 59, “Content Limits for Architectural Coatings,” and are consistent with CARB’s 2019 SCM.

Third, we have found that, because the submitted rule tightens VOC content limits for certain coating categories and restricts certain existing exemptions, it would not interfere with any applicable requirement concerning attainment or reasonable further progress (RFP) or any

other requirement of the CAA, and as such, may be approved under CAA sections 110(l) and 193. The TSD has more information on our evaluation.

C. Public comment and proposed action

As authorized in section 110(k)(3) of the Act, and for the reasons given above, the EPA proposes to fully approve the submitted rule because it fulfills all relevant requirements. We will accept comments from the public on this proposal until [**Insert date 30 days after date of publication in the *Federal Register***]. If finalized as proposed, this action would incorporate the submitted architectural coatings rule into the federally enforceable SIP, and the submitted rule would replace the corresponding existing SIP version of the rule in the VCAPCD portion of the California SIP.

III. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the November 10, 2020 version of VCAPCD Rule 74.2, listed in Table 1 of this preamble, which regulates emissions of VOCs from architectural coating operations. The EPA has made, and will continue to make, these materials available through <https://www.regulations.gov> and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely proposes to approve state law as meeting federal requirements and does not impose

additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act.

In addition, the state did not evaluate environmental justice considerations as part of its SIP submittal. There is no information in the record inconsistent with the stated goals of Executive Order 12898 (59 FR 7629, February 16, 1994) of achieving environmental justice for people of color, low-income populations, and indigenous peoples.).

Lastly, the SIP is not approved to apply on any Indian reservation land or in any other

area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: November 4, 2022.

Martha Guzman Aceves
Regional Administrator,
Region IX.

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